

HB1385



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB1385

by Rep. Sara Feigenholtz

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12C-70

Amends the Criminal Code of 2012. Makes a technical change in a Section concerning the payment or receipt of compensation for providing adoption services.

LRB099 07700 RLC 27833 b

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by changing
5 Section 12C-70 as follows:

6 (720 ILCS 5/12C-70)

7 Sec. 12C-70. Adoption compensation prohibited.

8 (a) Receipt of compensation for ~~for~~ placing out prohibited;
9 exception. No person and no agency, association, corporation,
10 institution, society, or other organization, except a child
11 welfare agency as defined by the Child Care Act of 1969, shall
12 knowingly request, receive or accept any compensation or thing
13 of value, directly or indirectly, for providing adoption
14 services, as defined in Section 2.24 of the Child Care Act of
15 1969.

16 (b) Payment of compensation for placing out prohibited. No
17 person shall knowingly pay or give any compensation or thing of
18 value, directly or indirectly, for providing adoption
19 services, as defined in Section 2.24 of the Child Care Act of
20 1969, including placing out of a child to any person or to any
21 agency, association, corporation, institution, society, or
22 other organization except a child welfare agency as defined by
23 the Child Care Act of 1969.

1 (c) Certain payments of salaries and medical expenses not
2 prevented.

3 (1) The provisions of this Section shall not be
4 construed to prevent the payment of salaries or other
5 compensation by a licensed child welfare agency providing
6 adoption services, as that term is defined by the Child
7 Care Act of 1969, to the officers, employees, agents,
8 contractors, or any other persons acting on behalf of the
9 child welfare agency, provided that such salaries and
10 compensation are consistent with subsection (a) of Section
11 14.5 of the Child Care Act of 1969.

12 (2) The provisions of this Section shall not be
13 construed to prevent the payment by a prospective adoptive
14 parent of reasonable and actual medical fees or hospital
15 charges for services rendered in connection with the birth
16 of such child, if such payment is made to the physician or
17 hospital who or which rendered the services or to the
18 biological mother of the child or to prevent the receipt of
19 such payment by such physician, hospital, or mother.

20 (3) The provisions of this Section shall not be
21 construed to prevent a prospective adoptive parent from
22 giving a gift or gifts or other thing or things of value to
23 a biological parent provided that the total value of such
24 gift or gifts or thing or things of value does not exceed
25 \$200.

26 (d) Payment of certain expenses.

1 (1) A prospective adoptive parent shall be permitted to
2 pay the reasonable living expenses of the biological
3 parents of the child sought to be adopted, in addition to
4 those expenses set forth in subsection (c), only in
5 accordance with the provisions of this subsection (d).

6 "Reasonable living expenses" means those expenses
7 related to activities of daily living and meeting basic
8 needs, including, but not limited to, lodging, food, and
9 clothing for the biological parents during the biological
10 mother's pregnancy and for no more than 120 days prior to
11 the biological mother's expected date of delivery and for
12 no more than 60 days after the birth of the child. The term
13 does not include expenses for lost wages, gifts,
14 educational expenses, or other similar expenses of the
15 biological parents.

16 (2) (A) The prospective adoptive parents may seek leave
17 of the court to pay the reasonable living expenses of the
18 biological parents. They shall be permitted to pay the
19 reasonable living expenses of the biological parents only
20 upon prior order of the circuit court where the petition
21 for adoption will be filed, or if the petition for adoption
22 has been filed in the circuit court where the petition is
23 pending.

24 (B) Notwithstanding clause (2) (A) of this subsection
25 (d), a prospective adoptive parent may advance a maximum of
26 \$1,000 for reasonable birth parent living expenses without

1 prior order of court. The prospective adoptive parents
2 shall present a final accounting of all expenses to the
3 court prior to the entry of a final judgment order for
4 adoption.

5 (C) If the court finds an accounting by the prospective
6 adoptive parents to be incomplete or deceptive or to
7 contain amounts which are unauthorized or unreasonable,
8 the court may order a new accounting or the repayment of
9 amounts found to be excessive or unauthorized or make any
10 other orders it deems appropriate.

11 (3) Payments under this subsection (d) shall be
12 permitted only in those circumstances where there is a
13 demonstrated need for the payment of such expenses to
14 protect the health of the biological parents or the health
15 of the child sought to be adopted.

16 (4) Payment of their reasonable living expenses, as
17 provided in this subsection (d), shall not obligate the
18 biological parents to place the child for adoption. In the
19 event the biological parents choose not to place the child
20 for adoption, the prospective adoptive parents shall have
21 no right to seek reimbursement from the biological parents,
22 or from any relative or associate of the biological
23 parents, of moneys paid to, or on behalf of, the biological
24 parents pursuant to a court order under this subsection
25 (d).

26 (5) Notwithstanding paragraph (4) of this subsection

1 (d), a prospective adoptive parent may seek reimbursement
2 of reasonable living expenses from a person who receives
3 such payments only if the person who accepts payment of
4 reasonable living expenses before the child's birth, as
5 described in paragraph (4) of this subsection (d), knows
6 that the person on whose behalf he or she is accepting
7 payment is not pregnant at the time of the receipt of such
8 payments or the person receives reimbursement for
9 reasonable living expenses simultaneously from more than
10 one prospective adoptive parent without the knowledge of
11 the prospective adoptive parent.

12 (6) No person or entity shall offer, provide, or
13 co-sign a loan or any other credit accommodation, directly
14 or indirectly, with a biological parent or a relative or
15 associate of a biological parent based on the contingency
16 of a surrender or placement of a child for adoption.

17 (7) Within 14 days after the completion of all payments
18 for reasonable living expenses of the biological parents
19 under this subsection (d), the prospective adoptive
20 parents shall present a final accounting of all those
21 expenses to the court. The accounting shall also include
22 the verified statements of the prospective adoptive
23 parents, each attorney of record, and the biological
24 parents or parents to whom or on whose behalf the payments
25 were made attesting to the accuracy of the accounting.

26 (8) If the placement of a child for adoption is made in

1 accordance with the Interstate Compact on the Placement of
2 Children, and if the sending state permits the payment of
3 any expenses of biological parents that are not permitted
4 under this Section, then the payment of those expenses
5 shall not be a violation of this Section. In that event,
6 the prospective adoptive parents shall file an accounting
7 of all payments of the expenses of the biological parent or
8 parents with the court in which the petition for adoption
9 is filed or is to be filed. The accounting shall include a
10 copy of the statutory provisions of the sending state that
11 permit payments in addition to those permitted by this
12 Section and a copy of all orders entered in the sending
13 state that relate to expenses of the biological parents
14 paid by the prospective adoptive parents in the sending
15 state.

16 (9) The prospective adoptive parents shall be
17 permitted to pay the reasonable attorney's fees of a
18 biological parent's attorney in connection with
19 proceedings under this Section or in connection with
20 proceedings for the adoption of the child if the amount of
21 fees of the attorney is \$1,000 or less. If the amount of
22 attorney's fees of each biological parent exceeds \$1,000,
23 the attorney's fees shall be paid only after a petition
24 seeking leave to pay those fees is filed with the court in
25 which the adoption proceeding is filed or to be filed. The
26 court shall review the petition for leave to pay attorney's

1 fees, and if the court determines that the fees requested
2 are reasonable, the court shall permit the petitioners to
3 pay them. If the court determines that the fees requested
4 are not reasonable, the court shall determine and set the
5 reasonable attorney's fees of the biological parents'
6 attorney which may be paid by the petitioners. The
7 prospective adoptive parents shall present a final
8 accounting of all those fees to the court prior to the
9 entry of a final judgment order for adoption.

10 (10) The court may appoint a guardian ad litem for an
11 unborn child to represent the interests of the child in
12 proceedings under this subsection (d).

13 (11) The provisions of this subsection (d) apply to a
14 person who is a prospective adoptive parent. This
15 subsection (d) does not apply to a licensed child welfare
16 agency, as that term is defined in the Child Care Act of
17 1969, whose payments are governed by the Child Care Act of
18 1969 and the Department of Children and Family Services
19 rules adopted thereunder.

20 (e) Injunctive relief.

21 (A) Whenever it appears that any person, agency,
22 association, corporation, institution, society, or other
23 organization is engaged or about to engage in any acts or
24 practices that constitute or will constitute a violation of
25 this Section, the Department of Children and Family
26 Services shall inform the Attorney General and the State's

1 Attorney of the appropriate county. Under such
2 circumstances, the Attorney General or the State's
3 Attorney may initiate injunction proceedings. Upon a
4 proper showing, any circuit court may enter a permanent or
5 preliminary injunction or temporary restraining order
6 without bond to enforce this Section or any rule adopted
7 under this Section in addition to any other penalties and
8 other remedies provided in this Section.

9 (B) Whenever it appears that any person, agency,
10 association, corporation, institution, society, or other
11 organization is engaged or is about to engage in any act or
12 practice that constitutes or will constitute a violation of
13 any rule adopted under the authority of this Section, the
14 Department of Children and Family Services may inform the
15 Attorney General and the State's Attorney of the
16 appropriate county. Under such circumstances, the Attorney
17 General or the State's Attorney may initiate injunction
18 proceedings. Upon a proper showing, any circuit court may
19 enter a permanent or preliminary injunction or a temporary
20 restraining order without bond to enforce this Section or
21 any rule adopted under this Section, in addition to any
22 other penalties and remedies provided in this Section.

23 (f) A violation of this Section on a first conviction is a
24 Class 4 felony, and on a second or subsequent conviction is a
25 Class 3 felony.

26 (g) "Adoption services" has the meaning given that term in

1 the Child Care Act of 1969.

2 (h) "Placing out" means to arrange for the free care or
3 placement of a child in a family other than that of the child's
4 parent, stepparent, grandparent, brother, sister, uncle or
5 aunt or legal guardian, for the purpose of adoption or for the
6 purpose of providing care.

7 (i) "Prospective adoptive parent" means a person or persons
8 who have filed or intend to file a petition to adopt a child
9 under the Adoption Act.

10 (Source: P.A. 97-1109, eff. 1-1-13.)